

**VIRGINIA BOARD OF NURSING
FORMAL HEARINGS
August 25, 2009**

TIME AND PLACE: The meeting of the Virginia Board of Nursing was called to order at 10:22 A.M. on August 25, 2009 in Board Room 2, Department of Health Professions, 9960 Mayland Drive, Suite 201, Henrico Virginia.

**BOARD MEMBERS
PRESENT:**

Patricia M. Selig, R.N., F. N. P., Ph.D, Vice President
Brenda Hale, R.N.
Florence Jones-Clarke, R.N., M.S.
Evelyn Lindsay, L.P.N.
Judith E. Piersall, R.N., B.S.N.

STAFF PRESENT:

Jodi P. Power, R.N., J.D., Deputy Executive Director
Brenda Krohn, R.N., M.S. Deputy Executive Director
Gloria D. Mitchell, R.N., M.S.N., M.B.A., Deputy Executive Director (joined later)
Donna Lee, Senior Discipline Specialist

OTHERS PRESENT:

Howard M. Casway, Senior Assistant Attorney General

**ESTABLISHMENT OF
A QUORUM:**

With five members of the Board present, a quorum was established.

FORMAL HEARINGS:

Danielle L. Gardner, C.N.A. 1401-090708
Ms. Gardner appeared.

Wendell Roberts, Adjudication Specialist represented the Commonwealth. Mr. Casway was legal counsel for the Board. Kimberly Krett, court reporter, recorded the proceedings.

Barbara Woodson, C.N.A.; Kelly Moss, Senior Investigator, Department of Health Professions; and Phyllis Wilson, C.N.A. were present and testified.

CLOSED MEETING:

Ms. Hale moved that the Board of Nursing convene a closed meeting pursuant to §2.2-3711(A)(27) of the *Code of Virginia* at 11:23 A.M., for the purpose of deliberation to reach a decision in the matter of Ms. Gardner. Additionally, Ms. Hale moved that Ms. Power, Ms. Krohn, Ms. Lee and Mr. Casway attend the closed meeting because their presence in the closed meeting is deemed necessary and their presence will aid the Board in its deliberations.
The motion was seconded and carried unanimously.

RECONVENTION:

The Board reconvened in open session at 11:33 A.M.

Ms. Hale moved that the Board of Nursing certify that it heard, discussed or considered only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act and only such public business matters as were identified in the motion by which the closed meeting was convened.

The motion was seconded and carried unanimously.

Ms. Jones-Clarke moved that the Board of Nursing accept the findings of fact and conclusions of law as presented by Mr. Roberts and amended by the Board.

The motion was seconded and carried unanimously.

ACTION:

Ms. Piersall moved that the Board of Nursing revoke the nurse aide certificate of Danielle Gardner with a finding of abuse.

The motion was seconded and carried unanimously.

This decision shall be effective upon the entry by the Board of a written Order stating the findings, conclusions, and decision of this formal hearing panel.

RECESS:

The Board recessed at 11:35 A.M.

RECONVENTION:

The Board reconvened at 11:50 A.M.

Ms. Krohn left the meeting. Ms. Mitchell joined the meeting.

FORMAL HEARINGS:

Carol J. Ellis, R.N. 0001-138007

Ms. Ellis did not appear.

Anne Joseph, Deputy Director, Administrative Proceedings Division represented the Commonwealth. Mr. Casway was legal counsel for the Board. Kimberly Krett, court reporter, recorded the proceedings.

Ron Houser, Senior Investigator, Department of Health Professions; and Jennifer Rigglesman, R.N., B.S.N., M.S.N., Nursing Supervisor, Director of Orthopedic Unit, Winchester Medical Center were present and testified.

CLOSED MEETING:

Ms. Hale moved that the Board of Nursing convene a closed meeting pursuant to §2.2-3711(A)(27) of the *Code of Virginia* at 12:15 P.M., for the purpose of deliberation to reach a decision in the matter of Ms. Ellis. Additionally, Ms. Hale moved that Ms. Mitchell, Ms. Power, Ms. Lee and Mr. Casway attend the closed meeting because their presence in the closed meeting is deemed necessary and their presence will aid the Board in its deliberations.

The motion was seconded and carried unanimously.

RECONVENTION:

The Board reconvened in open session at 12:30 P.M.

Ms. Hale moved that the Board of Nursing certify that it heard, discussed or considered only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act and only such public business matters as were identified in the motion by which the closed meeting was convened.

The motion was seconded and carried unanimously.

Ms. Piersall moved that the Board of Nursing accept the findings of fact and conclusions of law as presented by Ms. Joseph and amended by the Board.
The motion was seconded and carried unanimously.

ACTION: Ms. Jones-Clarke moved that the Board of Nursing indefinitely suspend the professional nursing license of Carol Ellis until such time as she can appear before the Board and provide sufficient evidence that she is safe and competent to practice.
The motion was seconded and carried unanimously.

This decision shall be effective upon the entry by the Board of a written Order stating the findings, conclusions, and decision of this formal hearing panel.

RECESS: The Board recessed at 12:35 P.M.

RECONVENTION: The Board reconvened at 1:20 P.M.

FORMAL HEARINGS: **Kenneth L. Wright, L.P.N. 0002-047060**
Mr. Wright appeared, represented by attorney, Margaret Hardy.

William Clay Garrett, Assistant Attorney General and LaRhonda Carter, Adjudication Specialist represented the Commonwealth. Mr. Casway was legal counsel for the Board. Kimberly Krett, court reporter, recorded the proceedings.

Sandra Barton, Senior Investigator, Department of Health Professions; Bonnie Stallings, C.N.A., Robin Stevens, C.N.A., Debbie Meacham, R.N.; and Danny Shortridge, C.N.A. were present and testified. Pam Moysakis, R.N. provided testimony by telephone.

RECESS: The Board recessed at 3:15 P.M.

RECONVENTION: The Board reconvened at 3:30 P.M.

CLOSED MEETING: Ms. Hale moved that the Board of Nursing convene a closed meeting pursuant to §2.2-3711(A)(27) of the *Code of Virginia* at 4:25 P.M., for the purpose of deliberation to reach a decision in the matter of Mr. Wright. Additionally, Ms. Hale moved that Ms. Power, Ms. Mitchell, Ms. Lee and Mr. Casway attend the closed meeting because their presence in the closed meeting is deemed necessary and their presence will aid the Board in its deliberations.
The motion was seconded and carried unanimously.

RECONVENTION: The Board reconvened in open session at 5:05 P.M.

Ms. Hale moved that the Board of Nursing certify that it heard, discussed or considered only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act and only such public business matters as were identified in the motion by which the closed meeting was convened.

The motion was seconded and carried unanimously.

Ms. Jones-Clarke moved that the Board of Nursing accept the findings of fact and conclusions of law as presented by Mr. Garrett and amended by the Board.
The motion was seconded and carried unanimously.

ACTION:

Ms. Piersall moved that the Board of Nursing vacate the Board order dated February 11, 2009 and place Kenneth Wright on probation for a period of one year of employment as a licensed practical nurse with terms to include, and not limited to, obtaining a physical and mental health evaluation.
The motion was seconded and carried unanimously.

This decision shall be effective upon the entry by the Board of a written Order stating the findings, conclusions, and decision of this formal hearing panel.

FORMAL HEARINGS:

Eva W. Jacobson, R.N. 0001-118750
Ms. Jacobson did not appear.

Amanda Mitchell, Adjudication Specialist represented the Commonwealth. Mr. Casway was legal counsel for the Board. Kimberly Krett, court reporter, recorded the proceedings.

CLOSED MEETING:

Ms. Hale moved that the Board of Nursing convene a closed meeting pursuant to §2.2-3711(A)(27) of the *Code of Virginia* at 5:20 P.M., for the purpose of deliberation to reach a decision in the matter of Ms. Jacobson. Additionally, Ms. Hale moved that Ms. Power, Ms. Mitchell, Ms. Lee and Mr. Casway attend the closed meeting because their presence in the closed meeting is deemed necessary and their presence will aid the Board in its deliberations.
The motion was seconded and carried unanimously.

RECONVENTION:

The Board reconvened in open session at 5:26 P.M.

Ms. Hale moved that the Board of Nursing certify that it heard, discussed or considered only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act and only such public business matters as were identified in the motion by which the closed meeting was convened.
The motion was seconded and carried unanimously.

Ms. Lindsay moved that the Board of Nursing accept the findings of fact and conclusions of law as presented by Ms. A. Mitchell and amended by the Board.
The motion was seconded and carried unanimously.

ACTION:

Ms. Jones-Clarke moved that the Board of Nursing indefinitely suspend the professional nursing license of Eva Jacobson until such time as she can appear before the Board and provide sufficient evidence that she is safe and competent to practice.
The motion was seconded and carried unanimously.

This decision shall be effective upon the entry by the Board of a written Order stating the findings, conclusions, and decision of this formal hearing panel.

ADJOURNMENT: The Board adjourned at 5:30 P.M.

Brenda Krohn, R.N., M.S.
Deputy Executive Director

**VIRGINIA BOARD OF NURSING
SPECIAL CONFERENCE COMMITTEE**

August 25, 2009

TIME AND PLACE: The meeting of the Special Conference Committee of the Board of Nursing was convened at 9:00 A.M. on August 25, 2009 in Board Room 2, Department of Health Professions, 9960 Mayland Drive, Richmond, Virginia.

MEMBERS PRESENT: Florence Jones-Clarke, R.N., M.S.
Brenda Hale, R.N.

STAFF PRESENT: Linda Kleiner, R.N. Discipline Case Manager
Jane Elliott, R.N., Ph.D., Discipline Staff

PRESENTED FOR CLOSURE/ADVICE:

CLOSED MEETING: Ms. Hale moved that the Special Conference Committee of the Board of Nursing convene a closed meeting pursuant to Section 2.2-3711(A)(27) of the *Code of Virginia* at 9:00 A.M. for the purpose of deliberation regarding case disposition. Additionally, Ms. Hale moved Ms. Kleiner and Dr. Elliott attend the closed meeting because their presence in the closed meeting is deemed necessary, and their presence will aid the Committee in its deliberations.
The motion was seconded and carried unanimously.

RECONVENTION: The Committee reconvened in open session at 10:00 A.M.

Ms. Hale moved that the Special Conference Committee of the Board of Nursing certify that it heard, discussed or considered only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act and only such public business matters as were identified in the motion by which the closed meeting was convened.
The motion was seconded and carried unanimously.

Investigative reports regarding three registered nurses, two licensed practical nurses, one certified nurse aide and two certified massage therapists were reviewed.

ACTION: Ms. Jones-Clarke moved to close one of the above cases due to insufficient evidence to support allegations of any violation of the Nurse Practice Act or Board of Nursing regulations. The motion was seconded and approved unanimously.

Ms. Jones-Clarke moved to offer six of the above individuals a pre-hearing consent order in lieu of further administrative proceedings. The motion was seconded and carried unanimously.

Ms. Jones-Clarke moved to offer a confidential consent agreement to one of the above individuals in lieu of initiating disciplinary proceedings. The motion was seconded and carried unanimously.

ADJOURNMENT: The Committee adjourned at 10:00 A.M.

Linda Kleiner, R.N.
Discipline Case Manager

**VIRGINIA BOARD OF NURSING
SPECIAL CONFERENCE COMMITTEE
August 25, 2009**

TIME AND PLACE: The meeting of the Special Conference Committee of the Board of Nursing was convened at 9:00 A.M., on August 25, 2009, in Board Room 1, Suite 201, Department of Health Professions, 9960 Mayland Drive, Richmond, Virginia.

MEMBERS PRESENT: Patricia M. Selig, R.N., F.N.P., Ph.D., Chairperson
Evelyn Lindsay, L.P.N.

STAFF PRESENT: Gloria D. Mitchell, R.N., M.S.N., M.B.A., Deputy Executive Director

OTHERS PRESENT: Amanda Mitchell, Adjudication Specialist
Anne Joseph, Deputy Director, Administrative Proceedings Division

CONFERENCES
SCHEDULED: **Leslie Yost-Schomer, R.N. 0001-125538**
Ms. Yost-Schomer appeared, accompanied by attorney, Brent Rollins; and husband, Dan Schomer.

Dr. Nazir Chaudhary was present and provided information in the matter of Ms. Yost-Schomer.

CLOSED MEETING: Ms. Lindsay moved that the Special Conference Committee of the Board of Nursing convene a closed meeting pursuant to Section 2.2-3711(A)(15) of the *Code of Virginia* at 9:20 A.M. for the purpose of consideration and discussion of medical records of Ms. Yost-Schomer that are excluded from the Freedom of Information Act by Virginia Code Section 1 of 2.2-3705.5. Additionally Ms. Lindsay moved that Ms. G. Mitchell, Ms. A. Mitchell, Mr. Schomer and Dr. Chaudhary attend the closed meeting because their presence in the closed meeting is deemed necessary, and their presence will aid the Committee in its deliberations.
The motion was seconded and carried unanimously.

RECONVENTION: The Committee reconvened in open session at 9:40 A.M.

Ms. Lindsay moved that the Special Conference Committee of the Board of Nursing certify that it heard, discussed or considered only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act and only such public business matters as were identified in the motion by which the closed meeting was convened.
The motion was seconded and carried unanimously.

CLOSED MEETING: Ms. Lindsay moved that the Special Conference Committee of the Board of Nursing convene a closed meeting pursuant to Section 2.2-3711(A)(27) of the *Code of Virginia* at 9:20 A.M. for the purpose of deliberation to reach a decision in the matter of Ms. Yost-Schomer. Additionally, Ms. Lindsay moved that Ms. G.

Mitchell and Ms. A. Mitchell attend the closed meeting because their presence in the closed meeting is deemed necessary, and their presence will aid the Committee in its deliberations.

The motion was seconded and carried unanimously.

RECONVENTION:

The Committee reconvened in open session at 10:10 A.M.

Ms. Lindsay moved that the Special Conference Committee of the Board of Nursing certify that it heard, discussed or considered only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act and only such public business matters as were identified in the motion by which the closed meeting was convened.

The motion was seconded and carried unanimously.

ACTION:

Ms. Lindsay moved to issue an order to take no action at this time contingent upon verification of Leslie Yost-Schomer's entry into the Health Practitioners Monitoring Program within 45 days of the order becoming final.

The motion was seconded and carried unanimously.

As provided by law, this decision shall become a Final Order thirty days after service of such order on Ms. Yost-Schomer unless a written request to the Board for a formal hearing on the allegations made against her is received from Ms. Yost-Schomer within such time. If service of the order is made by mail, three additional days shall be added to that period. Upon such timely request for a formal hearing, the decision of this conference committee shall be vacated.

ADJOURNMENT:

The Board adjourned at 10:15 A.M.

Gloria D. Mitchell, R.N., M.S.N., M.B.A.
Deputy Executive Director

**VIRGINIA BOARD OF NURSING
TELEPHONE CONFERENCE CALL
August 25, 2009**

A telephone conference call meeting of the Virginia Board of Nursing was held August 25, 2009 at 8:30 A.M. The Board members participating in the meeting were Patricia Selig, R.N., F.N.P., PhD, Vice President; Joyce A. Hahn, PhD., APRN, NEA- BC; Brenda Hale, R.N.; Florence Jones-Clarke, R.N., M.S.; Patricia Lane, R.N.,M.S.N.; Evelyn Lindsay, L.P.N.; Judith E. Piersall, R.N., B.S.N.

Others participating in the meeting were Howard M. Casway, Senior Assistant Attorney General; William Clay Garrett, Assistant Attorney General; Jay P. Douglas, R.N., M.S.M., C.S.A.C., Executive Director; Jodi P. Power, R.N., J.D., Deputy Executive Director; Gloria D. Mitchell, R.N., M.S.N., M.B.A., Deputy Executive Director; Brenda Krohn, R.N., M.S., Deputy Executive Director; Tammie Jones, Adjudication Specialist.

The meeting was called to order by Dr. Selig. With seven members of the Board participating, a quorum was established. A poll of those participating showed that a good faith effort to convene a regular meeting within the week was not possible.

William Clay Garrett, Assistant Attorney General, presented evidence that the continued nursing practice of James Wright, C.N.A. 1401-057072 may present a substantial danger to the health and safety of the public.

Ms. Hale moved to summarily suspend the nurse aide certificate of James Wright pending a formal administrative hearing and to offer a consent order for revocation of his certificate with a finding of abuse, in lieu of a formal hearing. The motion was seconded and carried unanimously.

The meeting was adjourned at 8:50 A.M.

Brenda Krohn, R.N., M.S.
Deputy Executive Director